**THE HON'BLE SRI JUSTICE V.V.S.RAO**
**AND**
**THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY**

**WRIT PETITION No.5216 of 2001**

**Dated:15.06.2007**

**Between:**

Kuntumukkala S.R.S.L.V.Prasada Rao, and another.

…Petitioners

and

The District Collector and Agent to the Government, E.G.Dist., and others.

…Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**
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**WRIT PETITION No.5216 of 2001**

**ORDER:** (Per the Hon'ble Sri Justice V.V.S.Rao)

The petitioners seek a writ of mandamus declaring the order of the first respondent dated 15.01.2001 in C.M.A.No.8 of 1998 as illegal and arbitrary, and for a consequential direction to set aside the same.

The second respondent initiated proceedings under Section 3(2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) ('Regulation' for brevity), on a complaint given by the fourth respondent that the transaction in relation to the land admeasuring Acs.3.38 cents in Survey No.119 situated at Gonthuvanipalem Village of Addateegala Mandal in East Godavari District, is hit by the provisions of the Regulation. The case was registered as L.T.R.P.No.7 of 1997. In the said case, the fifth respondent was shown as the respondent and notice was issued to him. He appeared and deposed that he is not the owner, and that he is tilling the land as a Coolie of Kuntumukkala Padmavathi – second petitioner herein; and one Tirupathi Raju, who are residents of Peddapuram Village. Considering the same, the second respondent passed orders on 15.07.1997 ordering eviction of the fifth respondent

herein after coming to a conclusion that the lease of land by the second petitioner and others in favour of the fifth respondent is prohibited by Section 3(1)(a) of the Regulation. Having come to know about this, the two petitioners herein preferred C.M.A.No.8 of 1998 before the first respondent, who agreed with the second respondent and dismissed the appeal. This is assailed in the Writ Petition.

Learned Counsel for the petitioners submits that the petitioners purchased the land under registered sale deed dated 15.04.1966 from a non-tribal, and the same is not hit by the provisions of the Regulation. Secondly, he submits that the second respondent did not issue notice to the petitioners, though the fifth respondent in his deposition mentioned the name of the second petitioner and the brother of the first petitioner. The second respondent passed orders based on the deposition given by the fifth respondent, who was only Coolie, and therefore, the Regulation is not attracted to the transaction. **Opposing** the Writ Petition, the learned Government Pleader submits that the petitioners were residents of Peddapuram Village, and therefore, the fifth respondent could not have been in occupation of the land as a Coolie, and hence, inference drawn by the second respondent that the transfer is within the meaning of Section 2(g) of the Regulation is valid and sustainable.

We have perused the record and considered the rival submissions. The basis for the original authority and the appellate authority for coming to the conclusion that the transfer, if any, between the petitioners and the fifth respondent is prohibited by Section 3(1)(a) is a statement/deposition given by the fifth respondent. When the same was recorded, the petitioners are not even parties to L.T.R.P.No.7 of 1997. Therefore, they had no opportunity to place their version for consideration of the original authority, though they raised such grounds before the appellate authority to the effect that they purchased the land under registered sale deed dated 15.04.1966, and that earlier proceedings, being L.T.R.P.No.352 of 1980, were dropped. Curiously, the first respondent failed to consider this aspect of the matter. Therefore, we are of the considered opinion that the impugned order is unsustainable.

The petitioners had an opportunity to appeal against the orders of the second respondent, dated 15.07.1997. No case was initiated by them as such. The report of the Special Deputy Tahasildar, based on which, L.T.R.P.No.7 of 1997 was initiated, appears not to have made any reference to the alleged ownership rights of the petitioners. Therefore, we deem it appropriate to remand the matter to the second

respondent giving liberty to the petitioners to produce necessary material in support of their case. As the matter is pending since 1997, we direct the second respondent to deal with the matter with utmost expediency. The petitioners may approach the second respondent with a copy of this order on 25.06.2007. On that day, the second respondent shall conduct enquiry and pass orders under Section 3(2) of the Regulation within a period of two weeks thereafter. If any adverse order is passed, the petitioners may file appeal immediately before the first respondent, who shall dispose of the appeal, if any, that may be filed, within a period of two weeks thereafter. This time schedule is being fixed having regard to the fact that the matter is pending for the last ten years.

The Writ Petition is accordingly disposed of. No costs.

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**(V.V.S.RAO, J)**

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**(G.V.SEETHAPATHY, J)**

15.06.2007
Note: Issue C.C by 18.06.2007.
B/o.
vs